

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

NO. 4:10-CR-102-FL  
NO. 4:12-CV-25-FL

This matter comes before the court on motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody filed by petitioner on February 16, 2012 (DE # 61). Response to said motion was by filed by respondent on March 30, 2012. With no reply having been filed, the matter is now ripe for ruling.

For good cause shown, petitioner's motion is GRANTED, and the matter is set for resentencing pursuant to United States v. Simmons, 649 F 3d 237 (4th Cir. 2011)(en banc) on **August 7, 2012, at 9:30 a.m. in New Bern.**

SO ORDERED, this the 27th day of April, 2012.

/s/ Louise W. Flanagan  
LOUISE W. FLANAGAN  
United States District Judge